

# United States District Court

## EASTERN DISTRICT OF NORTH CAROLINA

### WESTERN DIVISION

ALAN PITTS, SENECA NICHOLSON-PITTS,  
AND DERYL VON WILLIAMS,  
Plaintiffs,

v.

JAMES D. O'GEARY, RAY GRIFFIN,  
FRANK FRAZIER, FAYE GILL, GARY  
O. BARTLETT, JOHN H. ZOLLICOFFER, JR.,  
NORTH CAROLINA GENERAL ASSEMBLY,  
STATE OF NORTH CAROLINA, CITY OF  
HENDERSON, VANCE COUNTY BOARD OF  
ELECTIONS, NORTH CAROLINA BOARD  
OF ELECTIONS, SARA M. COFFERY,  
GARRY DAEKE, MICHAEL C. INSCOE,  
D. MICHAEL RAINY, BRENDA G. PEACE-  
JENKINS, LONNIE DAVIS, JR., GEORGE M.  
DAYE, AND JAMES KEARNEY,  
Defendants.

**JUDGMENT IN A CIVIL CASE**  
**CASE NO. 5:13-CV-116-D**

#### Decision by the Court:

IT IS ORDERED AND ADJUDGED that the Court DISMISSES the Complaint without prejudice pursuant to Rules 12(b)(4) and 12(b)(5). The Court GRANTS the State defendants' motion to dismiss the State of North Carolina under the Eleventh Amendment. The court lacks jurisdiction over the State of North Carolina, and the State of North Carolina is DISMISSED as a defendant. The Court DECLINES to address the State defendants' argument under Rule 12(b)(6) concerning the North Carolina General Assembly. If plaintiffs refile and properly serve the North Carolina General Assembly, the Court will request that a three-judge court be convened to address any motion under Rule 12(b)(6).

**THE ABOVE JUDGMENT WAS ENTERED TODAY, JANUARY 21, 2014 WITH A COPY TO:**

Alan Pitts, Pro se (via USPS to 438 Cross Creek Road, Henderson, NC 27537)  
Seneca Nicholson-Pitts, Pro se (via USPS to 438 Cross Creek Road, Henderson, NC 27537)  
Deryl Von Williams, Pro se (via USPS to 317 S. Garnett Street, Henderson, NC 27536)  
Adam S. Mitchell (via CM/ECF Notice of Electronic Filing)  
Julie B. Bradburn (via CM/ECF Notice of Electronic Filing)  
Alexander McClue Peters (via CM/ECF Notice of Electronic Filing)

January 21, 2014  
Date  
Raleigh, North Carolina

JULIE A. RICHARDS, Clerk  
Eastern District of North Carolina  
/s/ Debby Sawyer  
(By) Deputy Clerk